

Judge Sterling Johnson, Jr.

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Memorandum To Counsel - By The Hon. Sterling Johnson, Jr.

Re: Expectations And Requirements For Trials

1. Trial sessions will begin promptly.
2. Counsel should be prepared with witnesses to proceed continuously to the end of trial without interruption.
3. Applications: If counsel has any applications to make before testimony begins at any trial session, (s)he should alert his or her adversary and notify the courtroom deputy clerk well before the judge takes the bench.
4. All counsel shall remain seated and attentive while a witness is being sworn.
5. Counsel will question all witnesses from behind the lectern and should approach a witness only with permission of the court.
6. Objections: a) Counsel should rise when making objections or addressing the Court. b) In making objections, counsel should initially state that (s)he objects and the broad ground for the objection, e.g., leading, argumentative, irrelevant, etc. If argument is needed, the Court will request it or, if the significance of the objection is not clear, the counsel should ask for a side bar conference. There should be no argument on objections before the jury.

7. Learned Treatises: In all cases in which counsel intends to read statements from "learned treatises" to the jury pursuant to Fed. R. Evid. 803(18), the following procedure should be followed:
- a. Copies of any statements to be used shall be marked and designated in the same manner as exhibits in the Pretrial Order. At trial the court shall be provided with an extra copy of each statement to be read to the jury.
 - b. Before reading the statement, counsel will indicate to the Court, out of the jury's hearing, how the statement has been established as a reliable authority.

These requirements do not apply to impeachment on cross-examination by textbook or treatise material acknowledged by the expert witness to be a reliable authority.

8. Documentary Exhibits: All documents to be offered in evidence which contain multiple pages shall be paginated by proposing counsel in advance of trial. Where it is anticipated that a witness will refer to documentary evidence in the course of his or her direct testimony, proposing counsel is strongly advised to have copies of the document available for opposing counsel, each juror and the court.

Dated: Brooklyn, New York
, 2001

Sterling Johnson, Jr.
United States District Judge